

REMARKS

This is in response to the Office Action of March 14, 1999. Claims 1-5 are pending. Applicants request reexamination and reconsideration of the application.

On page 2 of the Action, the Examiner rejected claims 1-5 under 35 U.S.C. 102(b) as anticipated by four references:

U.S. Patent No. 5,440,111 to Eastman (Eastman '111)

U.S. Patent No. 5,401,948 to Krichever et al (Krichever '948)

U.S. Patent No. 5,798,512 to Krichever et al (Krichever '512)

U.S. Patent No. 5,144,120 to Krichever et al (Krichever '120)

Applicant submits each reference cannot anticipate any of claims 1-5 because each fails to disclose a system having a laser projecting a non-collimated beam where *the center ray of the non-collimated beam is perpendicular to the shaft*. In addition, Krichever '512 without regard to related U.S. Application data is not time-wise qualified to be prior art against the present application.

On page 3 of the Action, the Examiner rejected claims 1-5 under 35 U.S.C. 103 as unpatentable over the above references. He asserts given the structure of the references and use of one diode in the module, using a plurality of diode modules would be obvious. Further, he asserts it is not clear that a rotating shaft and a stationary shaft and an oscillating shaft constitute patentable distinctions and without clarification an oscillating and a rotating shaft are the same.

Applicant submits each reference either alone or together does not render any of claims 1-5 obvious because each of the cited references is for an application, e.g., bar code scanning which does not require or need to modify the laser beam projected from the system so that *the center ray of the non-collimated beam is perpendicular to the shaft*. We do not find any motivation for modifying these references to have such element, and respectfully submit that the claims must be considered as a whole. It is not sufficient to dissect the claims and select one limitation such as the indicated movement of the shaft

1 and assert that such movement is not a patentable distinction. This is in effect the point
2 of novelty test which is rejected by the Federal Circuit. Finally, applicant submits that the
3 difference between a rotating shaft and an oscillating shaft is readily understood when
4 reviewing the application and in view of the ordinary meaning attached to such terms. If
5 one enters a freeway on-ramp with an automobile which has oscillating shafts attached
6 to the wheels instead of rotating shafts, one would quickly understand that they are not
7 the same thing.

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9 In view of the above, it would have been unobvious to modify or combine the references
10 to arrive at the subject matters of claims 1-5. Applicants request allowance at an early
11 date. Please call to discuss the response to expedite the progress of the application.
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13 Respectfully submitted,

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